

*PUEBLO*  
*OF*  
*SAN ILDEFONSO*


## EMERGENCY COMMUNICATIONS PROTOCOL AGREEMENT

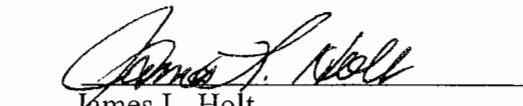
The following is a Communications Protocol between the Pueblo of San Ildefonso and the Los Alamos National Laboratory for notifications during emergency situations.

1. When incidents occur within the operating areas of the Laboratory that could effect or be of interest to the Pueblo of San Ildefonso its lands, or its people, the LANL Emergency Operations Center (EOC) will notify the Governor's Office at (505)455-2273, during normal work hours or the Pueblo of Pojoaque Law Enforcement Dispatch at (505)455-2259, after normal work hours. Pojoaque Dispatch will then contact the Bureau of Indian Affairs, Northern Pueblos Agency, (BIA-NPA) Chief of Police. The EOC will provide initial information directly to the appropriate office and periodic updates through the LANL Community Relations Office, as additional information becomes available.
2. When incidents occur on or adjacent to Pueblo lands that might have an effect on LANL operations or its employees, the Pueblo will notify the LANL Emergency Operations Center at (505) 667-6211 providing all available information. The LANL EOC will notify the effected LANL organizations of the situation and provide updates, as they become available.

This Communications Agreement will be effective upon signature of both parties. It will be reviewed annually and, if necessary, modified. It shall remain in effect until terminated in writing by either party.

Signed this date 12/19/2001

  
Perry Martinez  
Governor, San Ildefonso Pueblo

  
James L. Holt  
Deputy Director for Operations  
Los Alamos National Laboratory

Office of Governor



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Santa Fe, New Mexico 87501

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**SUPPLEMENTAL AGREEMENT TO THE  
COOPERATIVE AGREEMENT  
BETWEEN THE  
PUEBLO OF SAN ILDEFONSO  
AND  
THE UNIVERSITY OF CALIFORNIA  
LOS ALAMOS NATIONAL LABORATORY**

**I. INTRODUCTION**

This Supplemental Agreement derives from the Cooperative Agreement entered into on November 14, 1994, between the Pueblo of San Ildefonso (Pueblo) and the University of California, Los Alamos National Laboratory (Laboratory) and all of the provisions of the Cooperative Agreement are incorporated by reference into this Supplemental Agreement.

**II. BACKGROUND**

The officials of the Pueblo of San Ildefonso have requested technical assistance in assessing a site at Totavi, on the Pueblo land, where asbestos - contaminated material has been identified. The Pueblo has requested assistance from the Laboratory in assessing the site to identify the scope of the asbestos contamination, determine potential hazards, and estimating the cost of on site remediation.

**III. PURPOSE**

This Supplemental Agreement defines the tasks which the Pueblo and the Laboratory jointly agree to undertake, and the technical assistance which the Laboratory agrees to provide, in order to provide information to the Pueblo which it can use as it develops its site clean-up and restoration plan. The project will also further the goals of the Cooperative Agreement by promoting mutual collaboration, educational opportunities, and training among the parties on an environmental issue which is of importance to the Pueblo.

**IV. TECHNICAL ASSISTANCE**

The Laboratory's Industrial Hygiene and Safety Group (ESH-5) and Environmental Management Decontamination and Decommissioning Group (EM-DD) will provide the

technical assistance described in this Supplemental Agreement. Dr. Michael Brandt, Laboratory staff member, will be responsible for coordinating this assistance at the Laboratory and will be the Laboratory's primary contact on this project. David Sarracino of the Pueblo's Department of Environmental and Cultural Protection will be responsible for coordinating the Pueblo's collaboration and will be the Pueblo's primary contact on this project.

## **V. PROJECT TASK, REPORT AND PLANS**

The Laboratory and the Pueblo agree to undertake the following tasks pursuant to the Supplemental Agreement:

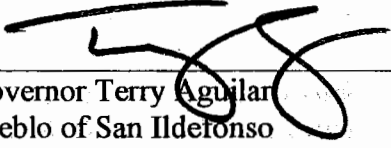
1. **Site Visit:** Visit the Totavi site to measure the boundary of each contaminated site (there are four suspect piles of building debris), perform a radiation survey of each contaminated site, and inspect each site. This task will also serve as a training exercise between the Pueblo of Environmental and Cultural Protection (DECP) staff and Laboratory staff.
2. **Risk Assessment:** Laboratory staff members will work with DECP staff members to learn how to perform a risk assessment using an acceptable risk assessment (RA) methodology as a starting point. Pueblo DECP and Laboratory staff will work together to complete the RA and this task will serve as another training exercise.
3. **Risk Communication Plan:** this plan will serve as a tool to educate all project participants about how to effectively communicate the results of the RA.
4. **Site Safety and Health Plan:** This plan will be used to educate all project participants about how to effectively protect workers and the health of the public during any site clean-up activity.
5. **Clean-Up and Remediation Options:** General options for the clear-up of the asbestos - containing materials will be developed. This task will involve identifying technical solutions and estimating the potential cost of each option.
6. The Laboratory and the Pueblo agree that the following plans and reports will be completed by the end of the project:
  - A. A risk assessment report in which the risk to the health of the public are characterized;
  - B. A plan describing how to effectively communicate the potential risks;
  - C. A report in which various technical options for cleaning up the material, including a range of costs for each options are defined; and

D. A generic site safety and health plan for use during any clean up of the site.

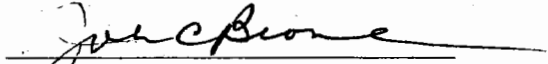
## VI GENERAL PROVISIONS

The Laboratory and the Pueblo each agree to be responsible for the safety and the work of their own staff assigned to this project and the parties understand that it is the Pueblo's responsibility to decide how any of the data, reports, plans or other information developed under this Supplemental Agreement will be used in its future remediation plans.

Dated this 28<sup>th</sup> day of July, 1999



\_\_\_\_\_  
Governor Terry Aguilar  
Pueblo of San Ildefonso



\_\_\_\_\_  
Director John C. Browne  
University of California-Los Alamos National Laboratory

Office of Governor



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**Reaffirmation and Amendment of the  
Pueblo of San Ildefonso  
and  
Los Alamos National Laboratory  
Cooperative Agreement of November 14, 1994**

**Introduction**

The Pueblo of San Ildefonso and the Los Alamos National Laboratory consummated a Cooperative Agreement on November 14, 1994. On October 1, 1997 the University of California's new management contract, W-7405-ENG-36, with the Department of Energy for operation of the Laboratory went into effect. On November 3, 1997, Dr. John C. Browne became the new Director of the Laboratory.

**Objectives**

It is the intent of the University of California and the Laboratory, under its new contract and new Laboratory Director to continue the implementation of the terms and conditions of the Agreement of November 14, 1994 and as amended with this Reaffirmation Agreement.

It is the intent of the Pueblo to continue the implementation of the terms and conditions of the Agreement of November 14, 1994, and as amended with this Reaffirmation Agreement, with the University of California and the Laboratory, under its new contract and new Laboratory Director.

**Amendment**

In accordance with Section VII, "Amendments", of the Cooperative Agreement, the Agreement of November 14, 1994 is hereby amended as follows:

Amendment No. 01-1997:

The Los Alamos National Laboratory is contracted by the University of California, a major educational institution. The Laboratory and the Pueblo understand that education is a key component that can enable the Pueblo to compatibly work with the Laboratory on complex issues associated with the operations of the Laboratory. The Laboratory will therefore work with the University and the Pueblo to develop and implement educational opportunities that will enhance and strengthen the future relationship between the Pueblo and the Laboratory.

**Agreement for Reaffirmation and Amendment**

With the signing of this document, the Laboratory Director, as an Officer of and on behalf of the Board of Regents of the University of California, hereby re-affirms the Cooperative Agreement of November 14, 1994 and all the terms and conditions as specified in the Agreement and the Amendment of November 25, 1997.

With the signing of this document, the Governor of the Pueblo of San Ildefonso, as the official representative of, and on behalf of the Pueblo, hereby re-affirms the Cooperative Agreement November 14, 1994 and all the terms and conditions as specified in the Agreement and the Amendment of November 25, 1997.

### Signatures

The Signatory Parties have executed the Reaffirmation of the Pueblo- Laboratory Agreement on the dates shown by their signatures and agree to be bound by its commitments as of the effective date herein stated.

For the University of California Board of Regents and the Los Alamos National Laboratory:

John C. Browne 11-25-97  
John C. Browne, Director Date

For the Pueblo of San Ildefonso:

Elmer C. Torres Nov. 25, 1997  
Elmer C. Torres, Governor Date

In Witness:

J. Thomas Edel 11.25.97  
United States Department of Energy Date

Donald H. Webb 11-25-97  
University of California Date

Office of Governor



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Route 5, Box 315-A  
Santa Fe, New Mexico 87501

**COOPERATIVE AGREEMENT**  
**between the PUEBLO OF SAN ILDEFONSO,**  
**A FEDERALLY RECOGNIZED INDIAN TRIBE and the**  
**UNIVERSITY OF CALIFORNIA as operator of the**  
**LOS ALAMOS NATIONAL LABORATORY**

**I. PREAMBLE AND GUIDING PRINCIPLES**

This COOPERATIVE AGREEMENT, with an effective date of November 14, 1994, is executed between the Pueblo of San Ildefonso, a Federally recognized Indian Tribe, hereafter referred to as "the Pueblo," and the University of California, operating the Los Alamos National Laboratory, hereafter referred to as "Laboratory", under contract W7405-ENG-36 with the United States of America, hereafter referred to as "Department of Energy" or "DOE", in order to better achieve mutual goals through an improved relationship between the parties.

The Laboratory has the authority to enter into this COOPERATIVE AGREEMENT and conduct negotiations concerning issues of mutual concern with the Pueblo pursuant to its authority under its contract with DOE and the existing ACCORD between the Pueblo and DOE.

The Pueblo has authority, as recognized by the United States of America, to enter into this COOPERATIVE AGREEMENT and conduct negotiations concerning issues of mutual concern with the Laboratory in order to carry out its responsibilities under the ACCORD between the Pueblo and DOE.

The chief executive officer of the Laboratory is the Director. The Director is an officer of the University of California and as such has authority to enter into this COOPERATIVE AGREEMENT. His execution of this COOPERATIVE AGREEMENT is binding on the University of California in relation to the operation of Los Alamos National Laboratory.



The governing body of the Pueblo is the Tribal Council. The Governor of the Pueblo is chief executive officer. The Governor has been granted authority to enter into this COOPERATIVE AGREEMENT by Resolution of the Pueblo Tribal Council.

Consistent with Federal laws, as well as the existing ACCORD between the DOE and the Pueblo, the Laboratory acknowledges the sovereign status of the Pueblo as a government and the Laboratory recognizes and respects the continued existence of the Pueblo's government, values, and culture. The Pueblo acknowledges the value of the Laboratory's work to the citizens of the United States of America and recognizes and respects the continued existence of the Laboratory.

The Laboratory recognizes and respects the trust relationship between the federal government and the Pueblo, and understands that as a contractor to effectuate federal government programs, it has the responsibility to act consistently with that trust responsibility. The Laboratory respects the Pueblo's prehistoric, historic and on-going cultural relationship and interest in the present Los Alamos area, and acknowledges applicable relevant federal protections.

## II. DEFINITIONS

"ACCORD" means the written agreement signed by the DOE and the Pueblo on December 8, 1992.

"COOPERATIVE AGREEMENT", shall mean this written agreement which states the basic understandings and commitments of the Laboratory and the Pueblo describing the general framework for their working together.

"CHARTER" for purposes of this COOPERATIVE AGREEMENT, is the agreement among the Pueblos of San Ildefonso, Cochiti and Jemez which governs inter-Pueblo rights and responsibilities in relation to the LOS ALAMOS PUEBLOS PROJECT.

"DIRECTOR" means the officer of the University of California, responsible for operation of the Los Alamos National Laboratory pursuant to the contract with DOE for that activity and purpose.

"GOVERNOR" is the Governor of the Pueblo of San Ildefonso.

Develop a long-term working relationship between the Laboratory and the Pueblo in addressing and developing resolutions to environmental, safety, health, cultural and economic issues, while assessing and evaluating the effects of the Laboratory's operations as they relate to the concerns of the Pueblo;

Assist the Pueblo to contribute to evaluation of environmental and cultural issues associated with operations at DOE facilities at Los Alamos, New Mexico;

Establish mechanisms to provide meaningful participation and consultation by the Laboratory in decisions for on-going activities and planning new activities of the Pueblo of interest to the Laboratory.

Establish mechanisms to provide meaningful participation and consultation by the Pueblo in decisions for on going activities and planning new activities of the Laboratory of interest to the Pueblo;

Establish mechanisms to inform each other in a proactive and timely manner of any issues of concern as to the activities of the other. Successful interaction and dialogue will enable the parties to understand issues important to the welfare of the other, and will allow them to participate in the decision-making process when significant actions of one affect the interests of the other and to interact with each other in a climate fostering trust and cooperation.

Both the Pueblo and the Laboratory will identify and seek to remove impediments to working directly and effectively with each other. Each party will work with its contractors or consultants that have tasks which may affect the other to clarify their roles and responsibilities as they relate to the other.

Both the Laboratory and the Pueblo will incorporate the principles of this COOPERATIVE AGREEMENT into their long-term planning and management processes.

The parties agree to work toward more efficient and beneficial communications to enhance participation in ongoing activities, long-range planning and decisions and their implementation, which may affect the interests of the other.

Finally, the parties to this COOPERATIVE AGREEMENT share a desire for a complete understanding between the Laboratory and the Pueblo reflecting a full working relationship

"LOS ALAMOS NATIONAL LABORATORY" or "the LABORATORY" is a facility of the Department of Energy, which is located in Los Alamos County, New Mexico, and which is operated by the Regents of the University of California pursuant to a contract with the Department of Energy.

"LOS ALAMOS PUEBLOS PROJECT" is the working group or team established pursuant to the ACCORD composed of authorized representatives of the Pueblos of San Ildefonso, Santa Clara, Cochiti and Jemez, and DOE and Laboratory representatives as appropriate.

"PARTIES" shall mean the Laboratory and the Pueblo.

"SECRETARY" is the Secretary of the United States Department of Energy.

"TRIBAL COUNCIL", for purposes of this COOPERATIVE AGREEMENT, is the Tribal Council of the Pueblo of San Ildefonso.

### III. PURPOSES AND OBJECTIVES

This COOPERATIVE AGREEMENT formalizes a relationship between the Laboratory and the Pueblo, consistent with federal law, as well as the ACCORD entered into by the Pueblo and DOE on December 8, 1992, and DOE policies issued by the Secretary on November 29, 1991, and May 18, 1994, together with White House Memorandum issued April 29, 1994. This relationship respects the sovereignty of the Pueblo and affirms the trust relationship of the United States of America towards the Pueblo as a federally recognized tribe.

This COOPERATIVE AGREEMENT is intended to:

Build confidence and trust and to improve communication between the parties by establishing **and institutionalizing** the context, goals and means for providing meaningful participation of and consultation with the Pueblo in Laboratory activities including, but not limited to evaluation of proposed or on-going actions, decisions or implementing programs, to enable the Pueblo to determine the effect, if any, on Pueblo environment, safety, health, or religious and/or culturally significant matters;

Develop a more open and participatory relationship in which the parties will make available to each other information, not otherwise restricted by law, on facilities, and programs, that could affect the other;

and the parties will work with all elements of the Laboratory and the Pueblo to achieve such an understanding.

#### IV. IMPLEMENTATION PROCESS AND RESPONSIBILITIES

The Los Alamos Pueblos Project has been established to carry out the purposes and objectives of this COOPERATIVE AGREEMENT.

The Los Alamos Pueblos Project meets regularly to establish goals, objectives and delineation of tasks relating to implementation of the principles of the Accord and to identify obstacles to the achievement of its goals, objectives and tasks. When appropriate, the Laboratory will participate in the Los Alamos Pueblos Project meetings to resolve issues in accordance with this COOPERATIVE AGREEMENT.

The Parties agree to provide meaningful participation and consultation opportunities to each other to assure that concerns are met prior to either party taking actions, making decisions or implementing programs that might reasonably be expected to affect the other.

The Parties agree to annually set out a work plan targeting certain areas as priorities for collaborative activity during that year, subject to additional mutually acceptable actions that may be undertaken as a result of the on-going consultation process. The Parties agree that Attachment A to this agreement lists topics that shall be discussed in formulating the Work Plan for the first year.

The Laboratory acknowledges that meaningful Pueblo participation in the Los Alamos Pueblos Project requires access to accurate information concerning the Los Alamos National Laboratory and related Laboratory activities, and the resources to take actions which are necessitated by Laboratory actions affecting the interests of the Pueblo. The Laboratory agrees to support the Pueblo's efforts to obtain funding from appropriate government agencies and to identify and facilitate ways in which the Laboratory might subcontract with the Pueblo and Pueblo-based businesses, including subcontracting on a preferential basis to the extent allowed by federal law.

The Parties recognize that implementation of this COOPERATIVE AGREEMENT will require a comprehensive effort to educate members and officials of the Pueblo and agents, employees, and subcontractors of the Laboratory and other interested Federal, State and County agencies of the relationship between the Laboratory and the Pueblo.

The Parties recognize that a key principle of their relationship is a requirement that individuals working to resolve issues of mutual concern are accountable to act in a manner consistent with this COOPERATIVE AGREEMENT. In furtherance of this principle, the Stakeholder Involvement Office of the Laboratory shall be responsible to the Director for implementation of this COOPERATIVE AGREEMENT. Pursuant to the Laboratory's contract with DOE, the Laboratory is responsible for implementation of this COOPERATIVE AGREEMENT in the spirit of the ACCORD between the Pueblo and DOE. Pursuant to the Pueblo's sovereignty and the Charter of the Pueblo members of the Los Alamos Pueblos Project, the Pueblo representative is accountable to the Pueblo's Tribal Council and Governor. The Director shall, in good faith, use his executive discretion to help implement the relationship between the Laboratory and the Pueblo. The Governor shall, in good faith, use his discretion to implement that relationship.

#### **V. RESERVATION OF RIGHTS**

In executing this COOPERATIVE AGREEMENT, neither party waives any rights, including, but not limited to, treaty rights, immunities, including sovereign immunities, or jurisdictional defenses or defenses based on other laws protecting status. Neither does this COOPERATIVE AGREEMENT diminish any rights or protection afforded other Indian persons or entities under state or Federal law.

#### **VI. DISPUTES**

While the relationship described by this COOPERATIVE AGREEMENT increases the ability of the parties to solve problems, it likely will not resolve all issues. Therefore, the COOPERATIVE AGREEMENT does not affect the right of each party to elevate any disputed issue, which is being considered by the Los Alamos Pueblos Project, to a higher decision-making authority including the Director, the Tribal Council, or the Governor and to defer to that decision-making authority when appropriate.

#### **VII. AMENDMENTS**

This COOPERATIVE AGREEMENT may be amended by mutual written agreement between the Pueblo and Laboratory.

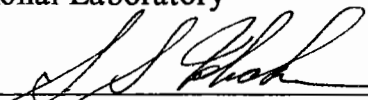
# VIII. LIMITATIONS

This COOPERATIVE AGREEMENT shall yield to the ACCORD and any other Agreement between the DOE and the Pueblo, if there is any conflict between the terms stated here and those in any agreement between DOE and the Pueblo.

NOW, THEREFORE, the signatory parties have executed this COOPERATIVE AGREEMENT on the dates shown by their signatures and agreed to be duly bound by its commitments as of the effective date hereinbefore stated.

REGENTS OF THE UNIVERSITY OF CALIFORNIA as operator of the Los Alamos National Laboratory

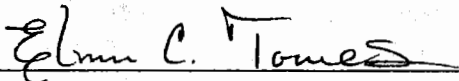
BY

  
S.S. HECKER, Director

Nov. 14, 1994  
Date

PUEBLO OF SAN ILDEFONSO

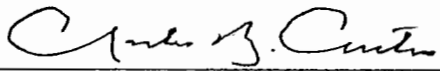
BY

  
Elmer C. Torres, Governor

Nov. 14, 1994  
Date

WITNESSED by  
United States of America  
Department of Energy

by

  
Charles B. Curtis  
Under Secretary

## ATTACHMENT A

1. Collaborative evaluation and implementation of new technologies;
2. Pueblo participation in health and safety matters;
3. Pueblo participation in Laboratory activities concerning the Site-Wide Environmental Impact Statement and other National Environmental Policy Act so as to adequately assess the potential impacts of activities on the Pueblo;
4. Pueblo participation in environmental restoration, waste and environmental planning and management;
5. Enhancement of Pueblo involvement in wildlife and cultural resource areas;
6. Pueblo participation in informing the community of on-going Laboratory activities;
7. Establishment of an education forum on environmental activities for interested community members;
8. Development of sufficient Pueblo infrastructure and economic structure to take advantage of opportunities to participate in Laboratory activities; and
9. Pueblo participation in Federal Facilities Compliance Act follow-up.
10. Development of strategy for joint-cooperative educational effort.

Office of Governor  
Pete Martinez



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Route 5, Box 315-A  
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**ACCORD**  
**between the**  
**PUEBLO OF SAN ILDEFONSO, A FEDERALLY RECOGNIZED INDIAN**  
**TRIBE**  
**and the**  
**UNITED STATES DEPARTMENT OF ENERGY**

**I. PREAMBLE AND GUIDING PRINCIPLES**

This ACCORD, with an effective date of December 15, 1992, is executed between the Pueblo of San Ildefonso, a Federally recognized Indian Tribe, hereafter referred to as "the Pueblo," through its Governor, and the United States Department of Energy, an Executive Department of the United States of America, hereafter referred to as "DOE," through its Assistant Secretary on behalf of the Secretary, in order to better achieve mutual goals through an improved relationship between the parties. The Assistant Secretary has program authority for carrying out Department of Energy missions and functions authorized by the Atomic Energy Act of 1954 and has overall administrative responsibility for the Los Alamos National Laboratory. His execution of this ACCORD is binding on the Department of Energy as a whole.

This ACCORD provides the framework for a government-to-government relationship between the parties and procedures to assure implementation of that relationship.



Each party to this ACCORD respects the sovereignty of the other. Consistent with Federal laws, DOE acknowledges that the sovereign character of the Pueblo gives it the authority to govern and DOE recognizes and respects the continued existence of the Pueblo's government, values, and culture.

DOE has authority to enter into this ACCORD and conduct negotiations concerning issues of mutual concern with the Pueblo pursuant to Public Law 95-91 and other applicable law. The Pueblo has authority, as recognized by the United States of America, to enter into this ACCORD and conduct negotiations concerning issues of mutual concern with DOE.

DOE recognizes that a trust relationship derives from the historical relationship between the Federal government and American Indian Tribes as expressed in certain treaties and Federal Indian law.

DOE will consult with the Pueblo to assure that tribal rights, responsibilities, and concerns are addressed prior to the DOE taking actions, making decisions, or implementing programs that may affect the Pueblo.

Consistent with Federal laws, including the American Indian Religious Freedom Act (Public Law 95-341), DOE, through its Albuquerque Field Office, its Los Alamos Area Office, and other DOE organizations, including DOE Headquarters as appropriate, will consult with the Pueblo about the potential impacts of proposed actions on the Pueblo and its cultural, religious and environmental resources and will avoid unnecessary interference with traditional practices.

DOE will identify and seek to remove impediments to working directly and effectively

with the Pueblo on DOE programs.

DOE will work with other Federal agencies and State and local agencies that have responsibilities related to activities at the Los Alamos National Laboratory to clarify the roles and responsibilities of such organizations which appear to be conflicting or overlapping as they relate to the Pueblo. DOE will also work with its contractors and subcontractors, including the University of California, that have, from time to time, responsibilities related to activities at the Los Alamos National Laboratory to clarify their roles and responsibilities as they relate to the Pueblo.

DOE will incorporate the principles of this ACCORD into its long-term planning and management processes.

Finally, the parties to this ACCORD share a desire for a complete understanding between DOE and the Pueblo reflecting a full government-to-government relationship and the parties will work with all elements of DOE and the Pueblo to achieve such an understanding.

## **II. DEFINITIONS**

"ACCORD," for purposes of this ACCORD, shall mean a written agreement stating the basic understandings and commitments of the parties and describing the general framework for their working together.

"ASSISTANT SECRETARY," for purposes of this ACCORD, shall mean the DOE Assistant Secretary for the Defense Programs, who is the Department of Energy's principal secretarial officer with line management responsibility for and accountability for both DOE Headquarters and field operations related to the Los Alamos National Laboratory.

"CHARTER," for purposes of this ACCORD, is the agreement among the Pueblos of San Ildefonso, Santa Clara, Cochiti, and Jemez which governs inter-Pueblo rights and responsibilities in relation to the LOS ALAMOS-PUEBLO PROJECT.

"GOVERNOR," is the Governor of the Pueblo of San Ildefonso.

"LOS ALAMOS NATIONAL LABORATORY," is a facility of the Department of Energy, which is located in Los Alamos County, New Mexico, and which is operated by The Regents of the University of California pursuant to a contract with the Department of Energy.

"LOS ALAMOS-PUEBLO PROJECT," is the working group or team established pursuant to this ACCORD composed of authorized representatives of the Pueblos of San Ildefonso, Santa Clara, Cochiti, and Jemez and DOE.

"SECRETARY," is the Secretary of the United States Department of Energy.

"TRIBAL COUNCIL," for purposes of this ACCORD, is the Tribal Council of the Pueblo of San Ildefonso.

### **III. PARTIES**

The parties to this ACCORD are DOE and the Pueblo.

### **IV. PURPOSE AND OBJECTIVES**

This ACCORD formalizes the government-to-government relationship between DOE and the Pueblo, a relationship consistent with DOE policy issued by the Secretary on November 29, 1991. This relationship respects the sovereignty of the Pueblo and affirms the trust relationship of the United States of America towards the Pueblo as a Federally recognized tribe.

This ACCORD is intended to build confidence and trust and to improve communication between the parties in the government-to-government relationship by outlining the process for implementing the relationship and by institutionalizing the relationship within the organizations represented by the parties.

This ACCORD provides the foundation and framework for developing agreements between the parties to address and resolve specific issues of mutual concern.

This ACCORD will assure that the Pueblo, through participation in the Los Alamos-Pueblo Project, has access to information which is not otherwise restricted by law and resources necessary for the Pueblo to participate meaningfully in DOE activities prior to DOE taking actions, making decisions, or implementing programs that may affect the interests of the Pueblo.

## **V. IMPLEMENTATION PROCESS AND RESPONSIBILITIES**

The parties have established the Los Alamos-Pueblo Project to carry out the purposes and objectives of this ACCORD.

The Pueblo has already approved, or will approve in the near future, a Resolution accepting the Charter which authorizes the participation of Pueblo representatives in the Los Alamos-Pueblo Project. The Pueblo will participate in negotiations and other discussions with DOE through the Los Alamos-Pueblo Project with representatives from other Pueblos which have adopted this Charter.

The parties agree that the Los Alamos-Pueblo Project shall meet regularly to establish goals, objectives and delineation of tasks relating to implementation of the principles of this

ACCORD and to identify obstacles to the achievement of those goals, objectives and tasks.

The parties agree to work toward a more efficient and beneficial communications to enhance participation by the Pueblo in DOE actions, including, but not limited to, on-going activities, long-range planning, and decisions and their implementation, which may affect the interests of the Pueblo.

DOE acknowledges that meaningful Pueblo participation in DOE actions and in the Los Alamos-Pueblo Project requires access to accurate information concerning the Los Alamos National Laboratory and other related DOE activities, the resources to independently verify the validity of the information received, as well as its consequences to the Pueblo, and the resources to take actions which are necessitated by DOE actions affecting the interests of the Pueblo. DOE also acknowledges that meaningful participation requires access to monetary resources beyond that available to the Pueblo at this time. DOE agrees to pursue funding for the Pueblo for these purposes.

The parties recognize that implementation of this ACCORD will require a comprehensive effort to educate members and officials of the Pueblo and agents, employees, contractors, and subcontractors of DOE and other interested Federal, State, and County agencies of the government-to-government relationship between DOE and the Pueblo. The parties agree to develop strategies for carrying out this educational effort.

The parties recognize that a key principle of their relationship is a requirement that individuals working to resolve issues of mutual concern are accountable to act in a manner consistent with this ACCORD. In furtherance of this principle, the Area Manager of the DOE

Los Alamos Area Office shall be accountable to the Assistant Secretary, who shall, in turn, be accountable to the Secretary, for implementation of this ACCORD. Pursuant to the Charter of Pueblo members of the Los Alamos-Pueblo Project, the Pueblo representative is accountable to the Pueblo's Tribal Council and the Governor.

As a component of the system of accountability, the parties agree that the Los Alamos-Pueblo Project will review and evaluate, on an annual basis, the Los Alamos-Pueblo Project's ability to implement the government-to-government relationship and to prepare for the Secretary and the Tribal Council an annual report summarizing this evaluation.

The Secretary shall, in good faith, use his executive discretion to help implement the government-to-government relationship. The Governor shall, in good faith, use his discretion to implement the government-to-government relationship.

## **VI. RESERVATION OF RIGHTS**

In executing this ACCORD, neither party waives any rights, including, but not limited to, treaty rights, immunities, including sovereign immunities, or jurisdictional defenses or defenses based on other laws protecting status. Neither does this ACCORD diminish any rights or protections afforded other Indian persons or entities under state or Federal law.

Except as otherwise provided herein, nothing in this ACCORD creates, nor shall be construed to create, any right of action by either party against the other.

## **VII. DISPUTES**

While the relationship described by this ACCORD increases the ability of the parties to solve problems, it likely will not resolve all issues. Therefore, the ACCORD does not affect

the right of each party to elevate any disputed issue, which is being considered by the Los Alamos-Pueblo Project, to the higher decision-making authority of another party, and to defer to that decision-making authority, including, when appropriate, to the Secretary, the Tribal Council, or the Governor.

### VIII. AMENDMENT

This ACCORD may be amended by mutual written agreement between the Pueblo and DOE.

NOW, THEREFORE, the signatory parties have executed this ACCORD on the dates shown by their signatures and agreed to be duly bound by its commitments as of the effective date hereinbefore stated.

#### UNITED STATE DEPARTMENT OF ENERGY

BY: Richard A. Claytor  
Richard A. Claytor, Assistant Secretary  
for Defense Programs

DATE: Dec. 8, 1992

#### PUEBLO OF SAN ILDEFONSO

BY: Agapito Martinez  
Agapito Martinez, Governor

DATE: Dec. 8, 1992

#### APPROVED AS TO FORM:

#### UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF INDIAN AFFAIRS

BY: Sidney Mills  
Sidney Mills, Area Director

DATE: 12-11-92

## Pueblo Concerns and Needs

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## **Pueblo Concerns and Needs**

Looking ahead, the Pueblos see the following special needs that should be funded by DOE so that the Pueblos may address their concerns about the following:

1. Area G Expansion. Technical Area 54, Area G is an active waste disposal facility for low-level and mixed wastes. The Pueblos believe that some transuranic waste may also have been disposed there. LANL wants to expand this site by almost 30 acres. LANL has provided tours of Area G to Pueblo leaders, as well as information about past, present, and proposed future activities there. The Pueblo needs significant staff and expertise to determine whether it can support any expansion of this activity. If, after full information and understanding, the Pueblos, especially San Ildefonso agrees that some expansion is acceptable, the Pueblo will need additional support to decide which conditions should apply, and what the Pueblo should get in return. Pueblo studies would investigate whether the expansion is needed. We are told there is five year's capacity available now, and better space utilization could extend the useful life of the present sized facility. Social and cultural impacts, including the migration routes of wildlife, must be studied carefully. Independent Pueblo studies are needed to determine "is it safe?" to operate at present and projected levels, with and without expansion. A detailed discussion of the environmental assessment, and the environmental impact statement, if done, with supporting documents and data by LANL is needed. The Pueblos asked LANL for a copy of the Area G expansion environmental assessment. They did not provide it, saying that it was with DOE. This should be provided to the Pueblos at the earliest possible opportunity, before the public comment period. The draft Safety Analysis Report for LANL and this project must be shared and evaluated, before any final decision can be made.

2. Reconfiguration. What is really going to happen at LANL, and how will the Pueblos address DOE weapons complex downsizing? The plutonium enrichment option could be very significant. Plutonium release problems in the past year have not been fully disclosed to the Pueblos, or adequately investigated from the tribal prospective. The transportation impact could be significant, as well. San Ildefonso Pueblo commented on the drafted Implementation Plan, yet received no follow-up opportunity for involvement from DOE. Significant resources are needed for excellent quality Pueblo participation. This plan is still in its early stages. There is a chance to do it right. The EM dimensions will be large, even if not fully identified yet.

3. NPDES - Water Quality. Highly sensitive, culturally relevant streams have already been contaminated by LANL. Primary contact drinking water standard is not yet recognized by EPA for LANL outfalls affecting San Ildefonso, and later Cochiti. Now, LANL wants to revise the NPDES permit it received last year. That permit required a study committee which both the State and LANL agreed would include Pueblo participation. So far, that hasn't happened. If the Pueblo needs to enact water quality standards, particularly

affecting groundwater, in order to get its "place at the table", the economic impact on LANL could be enormous. Providing funds for independent investigation and oversight, and reasonable regulation should appear the more the sensible option for DOE.

4. Triennial Review of New Mexico Water Standards. San Ildefonso Pueblo requested improved standards protecting ceremonial uses of water in its congressionally-recognized Sacred Area, which borders LANL. That process is still underway. Again, the Pueblo's right to regulate water quality standards is a matter of federal law. Whether that option needs to be exercised now or in the future depends in large part on the nature of cooperation by DOE and LANL.

5. Omega West Leakage. Long-term sampling and oversight review is needed. Immediate contamination was discovered by a surface water plume that disappeared into the alluvium some distance away from this nuclear reactor that had been leaking for a long time. San Ildefonso requested funds for an emergency response. Such funds should be available for future problems of this kind, as well as for long-term monitoring. This is one example for which the Pueblo raised concerns which were immediately downplayed by LANL. The Laboratory, we understand, has since developed a major monitoring program without informing the Pueblo. Defense Nuclear Facility Safety Board (DNFSB) is also concerned. Plans for stabilizing this facility need to be developed and shared with the Pueblos.

6. Tritium in Groundwater. The Pueblo submitted a proposal to DOE/EM to learn the extent of shallow groundwater contamination. LANL disclosed to the Pueblos earlier this year that it knows that Pueblo wells have been contaminated by tritium. The Pueblo raised this concern sometime ago. The Laboratory now agrees that contamination in the groundwater does exist, and needs more study. This is an EM priority. The Pueblo wants to demonstrate something which can be a key to EM success (using the colloidal boescope developed at Oakridge).

7. Incinerator. The Pueblos are all very concerned about air contamination. The Pueblos have authority to regulate under the Clean Air Act. LANL and DOE plans here should not be made in a vacuum. Work should be done proactively with potential regulators like the Pueblos. LANL has not yet present any information about its hazardous, radioactive and mixed waste incineration plans.

8. Mixed Waste. LANL proposed a facility on the Mesa north of Mortendad Canyon. That impacts the San Ildefonso Sacred Area both through air and water run off. The Pueblo must be involved. Public hearings have been held. Environmental impact statement on this proposed facility is needed.

9. Canyon Restoration. LANL just informed the Pueblos of this project. Its budget is over \$1 million for this fiscal year to prepare a work plan. The Pueblo wants staff estimated at 30% of project planning costs to participate in the work plan development and assessment work. This project explicitly includes San Ildefonso Pueblo land in the "operable unit". Los Alamos Canyon is presently be evaluated for Superfund eligibility.

10. Return of Excess Land to the Pueblo. Rendija Canyon contains many Pueblo shrines and archeological sites. DOE has declared several hundred acres of land there surplus for years. This land should be returned to San Ildefonso Pueblo immediately. A policy should be established that lands declared surplus by DOE should be transferred to the Secretary of the Interior, to hold in trust for the Pueblo of San Ildefonso.

11. Wildlife Tracking. Pueblo people have hunted these lands for many centuries. Wildlife moves through DOE and LANL lands and on to Pueblo lands. These wildlife movements need to be studied long-term. The Pueblos are ideally suited to undertake this work.

12. Cultural Preservation. Cultural preservation is an element that should be contracted directly from DOE to the Pueblos. Cooperating through the Charter, the Pueblos can provide the cultural preservation perspective required to analyze all significant federal actions for environmental impacts. San Ildefonso Pueblo as the aboriginal user if LANL land is especially well qualified for this purpose.

13. Transportation. The motor vehicle transportation to and from Los Alamos National Laboratory must use roads going through Pueblo lands. The recently enlarged State Road 502 goes through San Ildefonso. State Road 30 goes through San Ildefonso and Santa Clara Pueblo lands. State Road 4 goes through Jemez Pueblo lands. The investment made by DOE in providing funds for transportation and other planning over a five-year period to tribe impacted by Hanford in the northwest part of the United States can be a useful model here especially as to funding levels. Naturally, the tribal conclusions need not be identical. However, the DOE needs to fund tribal involvement in this important activity at significant levels.

14. Archive Research/Specialist/Trainer. Records management for Pueblo monitoring, oversight, and work done in the legal, technical, policy, and regulatory dimensions needs to be designed in from the beginning. This will bear fruit in increasing amounts as the years go by.

15. Defense Nuclear Facility Safety Board (DNFSB). The Pueblos need DOE funds to independently follow-up on problems identified by the DNFSB. The Board noted "unsatisfactory compliance efforts at LANL". It further called for a review of the radiological

protection program and a preliminary hazards analysis to address facility deficiencies and compensating measures. The Pueblos share an interest in knowing how well LANL workers are trained, protected and monitored. The Cassini Project appears repeatedly in DNFSB correspondence about LANL, yet the Pueblos are unaware of what it is. The overall question of appropriate radiological contamination remains unanswered. We need to be part of the answering process.

16. Pueblo Adoption of Water Quality Standards. This regulatory authority may be asserted by the Pueblos in the future. DOE and LANL should provide funding at a level that allows it to function in a manner at least equivalent to that funded by the State of New Mexico Environment Department. This would provide over \$1 million per year for LANL oversight and monitoring from the Pueblo point of view.